THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23277 OF 2005

ORDER:

The petitioner is a practicing Advocate in this Court. He was appointed as the Standing Counsel for A.P. Vaidya Vidhana Parishad, for a period of three years vide G.O.Rt.No.778 LAW (A) DEPARTMENT, dated 28.10.1996. In the said order it was mentioned that the Standing Counsel shall be paid fees as per the A.P. Advocate Fees Rules, and as fixed by the Court or Tribunal, whichever is less. It is not in dispute that the petitioner continued as Standing Counsel till 21.03.2005, on which date a new Standing Counsel was appointed vide G.R.Rt.No.310, dated 21.03.2005. Thereafter, the petitioner submitted necessary bills to the 2nd respondent claiming remuneration with regard to the cases in which he appeared during his tenure. Since the 2nd respondent did not respond, the petitioner earlier filed W.P.No.20342 of 2005, seeking to declare the inaction on the part of the 2nd respondent as arbitrary and illegal. During the pendency of the said Writ Petition, the 2nd respondent-Commissioner, A.P. Vaidya Vidhana Parishad, Hyderabad, issued proceedings dated 14.09.2005, according sanction for payment of Rs.1,79,500/- towards Advocate fees to the petitioner in full and final settlement. However, since the 2nd respondent sanctioned only a sum of Rs.1,79,500/- as against the three bills submitted by the petitioner for a total sum of Rs.3,12,000/-, the Writ Petition was disposed of by order dated 26.09.2005 with a direction to the 2nd respondent to state reasons for disallowing the claim of the petitioner for a sum of Rs.1,32,500/- within a period of six weeks, and on receipt of the same, it was left open to the petitioner to take further steps.

In pursuance thereof, the 2nd respondent vide letter dated 22.10.2005 informed the petitioner that the three bills dated 1.03.2005, 17.06.2005 and 29.07.2005 presented by him claiming a sum of Rs.3,12,000/- towards remuneration were considered in the light of the payment structure allowed to the Standing

Counsel as well as the previous payments made to him, and it was found that as against the sum of Rs.3,12,000/- claimed by him, he was eligible to receive only a sum of Rs.1,79,500/-. Accordingly, sanction was accorded for the said sum of Rs.1,79,500/- vide proceedings dated 14.09.2005. In compliance with the directions issued by this Court in W.P.No.20342 of 2005, the 2nd respondent had also furnished details of admissible/inadmissible amount along with reasons for inadmissible amounts for each of several cases listed in the Annexure enclosed to the letter dated 22.10.2005. The said action of the 2nd respondent in disallowing a sum of Rs.1,32,500/- is under challenge in this Writ Petition.

The petitioner, who appeared in person, submits that the action of the 2nd respondent in disallowing a sum of Rs.1,32,500/- is not in accordance with the proceedings dated 30.05.1998, under which it was decided by the 2nd respondent to pay a sum of Rs.2,000/- per case to the petitioner towards fees. It is contended that the 2nd respondent is not justified in paying a lesser amount in some of the cases without any prior notice to the petitioner.

The 2nd respondent filed a counter-affidavit stating that as per the proceedings dated 30.05.1998, the petitioner was ineligible for a sum of Rs.1,000/- in respect of the cases disposed of at the admission stage, and since the petitioner claimed Rs.2,000/- in all the cases including the cases disposed of at the admission stage by the A.P. Administrative Tribunal and the High Court, a sum of Rs.1,32,500/- was disallowed, as it was found to be excess.

As can be seen from the order of appointment, dated 28.10.2996, the petitioner was entitled to the fees as per the A.P. Advocate Fees Rules or as fixed by the Court or Tribunal whichever is less. However, it is not in dispute that in none of the cases either this Court or the A.P. Administrative Tribunal has fixed any fees. It is also relevant to note that the 2nd respondent issued proceedings dated 30.05.1998 sanctioning a sum of Rs.79,000/- towards fees for the cases in which the petitioner filed counters which were finally disposed of. The said payment was sanctioned on the basis of the decision to pay the fees to the Standing Counsel at Rs.2,000/- per case, subject to the ratification by the Governing Council after its formation. It was also mentioned in the said proceedings that Rs.1,000/- i.e., 50% of fee shall be paid if the Standing Counsel prepares counter and the balance of 50% shall be paid after

final disposal of the case. The said decision was taken on a request made by the petitioner vide letter dated 20.12.1996 to pay a sum of Rs.2,000/- per case, which includes Clerical fees, Stenographer charges and all other incidental expenses. However, when the said request was referred to the Government, the Government vide letter dated 22.02.1997, informed that the Standing Counsel shall be entitled to claim his fees as per the Advocate Fees Rules till the finalization of the monthly consolidated remuneration by the Government. Thereafter, though an Agenda has been prepared with regard to payment of fees at the rate of Rs.2,000/- per case, the same could not be placed before the Governing Council, since Governing Council has not been constituted. Keeping in view the fact that the petitioner was not paid any fees from the date of his appointment, it was decided by the 2nd respondent by proceedings dated 30.05.1998 to pay the fees to the petitioner at the rate of Rs.2,000/- per case, subject to ratification by the Governing Council after its formation. It is also not in dispute that in accordance with the said decision, the petitioner was paid Rs.2,000/- per case as and when claimed by him. However, when the final bills were submitted, the 2nd respondent disallowed a total sum of Rs.1,32,500/- on the ground that so far as the cases which were dismissed at the stage of admission were concerned, the petitioner was entitled only to a sum of Rs.500/- per case.

However, the learned Standing Counsel appearing for the 2nd respondent could not place before this Court any material to show as to how and when such payment structure was fixed by the 2nd respondent. The fact that the petitioner was never informed of the decision said to have been taken by the 2nd respondent to pay only a sum of Rs.500/- per case, which was dismissed at the stage of admission, has not been disputed by the respondents.

It is also relevant to note that admittedly the Governing Council has not yet been constituted, and consequently, the decision taken by the 2nd respondent in the proceedings dated 30.05.1998 to pay a sum of Rs.2,000/- per case to the petitioner still holds the field. Hence, the impugned decision of the 2nd respondent to limit the fees to Rs.500/- with regard to the cases disposed of at the stage of admission is apparently not in conformity with the proceedings dated 30.05.1998 and cannot be

sustained.

Accordingly, the proceeding dated 14.09.2005 to the extent of disallowing a sum of Rs.1,32,500/- (one lakh thirty two thousands and five hundred only) is set aside and the Writ Petition is disposed of with a direction to the 2nd respondent to pay the remuneration to the petitioner in terms of the proceedings dated 30.05.1998. No costs.

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(G. ROHINI, J.)

10th February, 2006.

Note:- CC in one week.

(B/O)

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23277 OF 2005

6th February, 2006.

Between:

K.L.N. Swamy. .. Petitioner.

And

The Government of A.P.,

Represented by its Secretary,

Legal Affairs, Law Dept,

Secretariat, Hyderabad and two others. .. Respondents.